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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

GERALD OSCAR PERSON,

Plaintiff,

Civil No. 03-1046-CL

v.

ORDER

OREGON DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

CLARKE, Magistrate Judge.

Plaintiff has filed a "Notice of Mandate" (#131) requesting that this court "honor the MANDATE, MANDATED by the (Ninth Circuit Court of Appeals)."

Judge Aiken's Order (#127) entered May 22, 2009, fully complied with the Court of Appeals Mandate (#126) ordering that plaintiff's federal claims dismissed for failure to exhaust state remedies be dismissed without prejudice.

Plaintiff's Motion to Vacate Judgment (#128) was properly denied. Plaintiff's right to a jury trial or "continued due process to make discovery" are theoretical, and at best,

premature. Plaintiff is free to pursue administrative remedies, if any, without further intervention of the court. Accordingly, any relief requested in plaintiff's Notice of Mandate (#131) is denied.

IT IS SO ORDERED

DATED this 25 day of June, 2009.



Mark D. Clarke
United State Magistrate Judge